

REMARKS

Applicants are submitting this amendment in an earnest effort to bring this application to issue without delay.

Applicants wish to reiterate their claim to the benefit of their German priority date of 7 October 2002 pursuant to the International Convention. Applicants have made a certified copy of German Patent Application 102 46 632.7 filed 7 October 2002 in their PCT/EP2003/010910 filed 2 October 2003, of which the instant application is the US National Phase. The Examiner has already acknowledged Applicants' perfected right of priority.

Applicants wish to thank Examiner Brunsman for holding a telephone interview with the undersigned on 26 October 2009. Applicants acknowledge receipt of the Examiner's Interview Summary Record that the Examiner prepared later that day. Applicants are attaching a copy of the Examiner's Interview Summary Record to this amendment. During the interview the Examiner and the Undersigned discussed claims 39 through 108, submitted herewith. The undersigned indicated that Claim 38 and claims 39 through 49, dependent upon claim 38, are directed to compositions with a particle size distribution as in original claim 5, that is with finer granules. Claim 50 is an independent claim and is directed to the composition of Example 1 with its particle size range. Claim 51

is also an independent claim and is directed to the composition of Example 2 with its particle size range. The undersigned noted that the compositions of claim 50 and 51 are similar to the compositions of claim 38 in terms of particle size range, but not quite within the scope of claim 38. Therefore Applicants have drafted claims 50 and 51 as independent claims with Examples 1 and 2 as the antecedent basis.

Claim 52 and claims 53 through 63 are directed to compositions with a particle size distribution as in original claim 6, that is with coarser granules. Claim 64 is also an independent claim and is directed to the composition of Example 3. The undersigned noted that the composition of claim 64 is similar to the compositions of claim 52 in terms of particle size range, but not quite within claim 52. Therefore Applicants have drafted claim 64 as an independent claim with Example 3 as the antecedent basis.

Claims 39 through 49 and claims 53 through 63 replace claims 2, 3, 4, 7, 8, 11, 18, 19 and 20, which were original dependent claims that the Examiner never withdrew from further consideration as directed to a non-elected invention. Claims 65 through 72, dependant upon claim 38, and claims 73 through 80, dependent upon claim 52, replace original claims 10, and 12 through 17, which the Examiner has withdrawn from further consideration as directed to a non-elected invention. However, now that the Examiner has indicated that there is allowable subject matter, Applicants seek to rejoin claims directed to the subject matter originally

withdrawn from further consideration so long as such claims are properly dependent upon an allowable claim.

In the composition claims directed to the sprayable coating agent in the form of granules, Applicants did not include the method limitation appearing in the preamble of claim 1, describing how the compositions are prepared. The Examiner indicated on page 2, central paragraph, of the office action mailed 5 August 2009 that putting these method steps in the preamble does not serve in any way to distinguish the composition claims over the prior art. In the composition claims that Applicants have made the changes requested by the Examiner on pages 2 and 3 of the office action to correct the problem of indefinite language in violation of 35 USC 112, second paragraph.

Applicants have also submitted claims 81 through 90, directed to a method for preparing the compositions with the particle size range set forth in original claim 5. Claims 91 through 99 are directed to a method for preparing the compositions with the particle size range set forth in original claim 6. Applicants have distinguished between the preliminary grinding step at the beginning of the method and the granulating step at the end of the method. The granulating step is actually a crystallizing step where particles actually become larger during the process. The grinding stock that is produced in claim 81, step (a) and claim 91, step (a) has antecedent basis in the specification on page 5,

central paragraph. Thus the particle size increases following the granulation of the grinding stock.

Independent claim 100 is directed to a method of applying the decorative coating that comprises applying to a surface a composition with the original broad particle size range set forth on original claim 1. Even though the Examiner indicates that the ILYINA et al reference, BIOCATALYSIS 2000: Fundamentals and Applications anticipates the original compositions disclosed in claim 1 because the reference discloses granules of cellulose within the same particle size range, the reference does not anticipate the use of these particles as a coating composition for walls, ceilings and the like. The reference shows that the compositions are used as a substrate for supporting bacteria that may be added to the soil for the purpose of inoculating the soil with useful bacteria to promote agriculture. Therefore the use of the compositions of original claim 1, claimed as a method of use in claims 100 through 105 are patentably distinguishable over the reference.

Claims 106, 107 and 108 relate respectively to the sprayable coating agents in the form of dry cellulose granules, a method for preparing the sprayable coating agents in the form of dry granules, and a method of applying a decorative coating, finishing or structuring to an interior or exterior surface by wetting the dry granules with water and applying the granules wet with water to a wall or ceiling. Page 8, last full paragraph of the

specification provides antecedent basis for the preparation and use of such dry granule compositions.

The undersigned expressed Applicants' hope that the Examiner would rejoin claims 81 through 90 directed to a method for preparing the compositions with the particle size range set forth in original claim 5 and claims 91 through 99 directed to a method for preparing the compositions with the particle size range as set forth in original claim 6 and also rejoin claims 100 to 105 directed to a method of applying the decorative coating that comprises applying to a surface a composition with the original broad particle size range set forth in original claims 5 and 6 as well and perhaps even as set forth in original claim 1. Examiner Brunsman stated that he will consider rejoinder of the claims directed to a method of preparing the compositions and to a method of applying the compositions once he determines the scope of the allowable composition claims. The Examiner indicated that the claims directed to a method of preparing the compositions and to a method of applying the compositions must conform in scope to the allowed composition claims.

Examiner Brunsman indicated that the claims to the coating agent commensurate in scope with claims 5 and 6 originally presented appear to be allowable over the cited prior art. However, the Examiner indicated that he will now expand his search beyond the elected species of claim 37, now replaced by claims 49 and 63, and conduct a broader search of the prior art before making

his determination as to the scope of the composition claims allowable over the prior art.

Applicants include authorization to charge to the credit card of the undersigned attorneys the additional fee for the extra claims submitted beyond the extra claims submitted in previous communications. Specifically, Applicants include authorization to charge the \$770.00 cost of filing seven excess independent claims beyond the three independent claims covered by the basic filing fee and the \$910.00 cost of filing thirty five additional total claims beyond the number of total claims that Applicants have already filed and for which Applicants have already paid.

Applicants await further action.

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Examiner's Interview Summary Record
(2 ADDITIONAL CLAIM CHARGES)

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